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**REMARKS**

Applicants traverse the restriction requirement between Groups I and II as being contrary to the unity of invention standard that is applicable to a national phase application under the PCT. Contrary to the Examiner's allegation, the polynucleotide of claim 1 and the peptide of claim 2 that is encoded by the polynucleotide of claim 1 are linked to form a single general inventive concept and do share a special technical feature. Specifically the Examiner is directed to Example 17 of the Administrative Instructions Under the PCT (attached hereto) in which a claim to "protein X" and a claim to a "DNA sequence encoding protein X" were found to have unity of invention. New claims 21 and 22 correspond almost identically to the claims of the PCT administrative instructions and should not be restricted into separate groups. Therefore applicants respectfully request the withdrawal of the restriction requirement between Groups I and II.

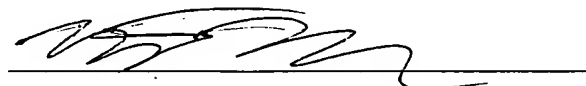
With respect to the restriction requirement between Group I and Groups III – VIII, applicants contend that all of these groups have SEQ ID NO:2 as the special technical feature and therefore claims 12-18 have unity of invention with claim 1. Accordingly, restriction is improper.

Finally, applicants wish to respectfully bring to the Examiner's attention that the restriction requirement omits claims 19 and 20, which were added by the preliminary amendment filed January 8, 2002. Applicants contend that these claims also share the special technical feature in common with the rest of the claims and therefore restriction is improper.

Respectfully submitted,

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## MANUAL OF PATENT EXAMINING PROCEDURE

Claim 3: A display with features A + B with additional feature D.

Unity exists between claims 1, 2, and 3. The special technical feature common to all the claims is features A + B.

### Example 13

Claim 1: Filament A for a lamp.

Claim 2: Lamp B having filament A.

Claim 3: Searchlight provided with lamp B having filament A and a swivel arrangement C.

Unity exists between claims 1, 2, and 3. The special technical feature common to all the claims is the filament A.

### Example 14

Claim 1: A marking device for marking animals, comprising a disc-shaped element with a stem extending normally therefrom, the tip of which is designed to be driven through the skin of the animal to be marked, and a securing disk element to be fastened to the protruding tip of the stem on the other side of skin.

Claim 2: An apparatus for applying the marking device of claim 1, constructed as a pneumatically actuated gun for driving the stem of the disc-shaped element through the skin, and provided with a supporting surface adapted for taking up a securing disc element, to be placed at the other side of the body portion in question of the animal to be marked.

The special technical feature in claim 1 is the marking device having a disc-shaped element with a stem and a securing disc element to be fastened to the tip of the stem. The corresponding special technical feature in claim 2 is the pneumatically actuated gun for driving the marking device and having a supporting surface for the securing disc element. Unity exists between claims 1 and 2.

### Example 15

Claim 1: Compound A.

Claim 2: An insecticide composition comprising compound A and a carrier.

Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

### Example 16

Claim 1: An insecticide composition comprising compound A (consisting of  $a_1, a_2, \dots$ ) and a carrier.

Claim 2: Compound  $a_1$ .

All compounds A are not claimed in the product claim 2 for reasons of lack of novelty of some of them for instance. There is nevertheless still unity between the subject matter of claims 1 and 2 provided a 1 has the insecticidal activity which is also the special technical feature for compound A in claim 1.

### Example 17

Claim 1: Protein X

Claim 2: DNA sequence encoding protein X.

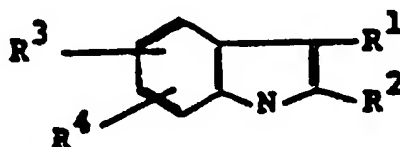
## ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT

Expression of the DNA sequence in a host results in the production of a protein which is determined by the DNA sequence. The protein and the DNA sequence exhibit corresponding special technical features. Unity between claims 1 and 2 is accepted.

### III. MARKUSH PRACTICE

#### Example 18— common structure:

Claim 1: A compound of the formula:



wherein  $R^1$  is selected from the group consisting of phenyl, pyridyl, thiazolyl, triazinyl, alkylthio, alkoxy, and methyl;  $R^2$ - $R^4$  are methyl, benzyl, or phenyl. The compounds are useful as pharmaceuticals for the purpose of enhancing the capacity of the blood to absorb oxygen.

In this case the indolyl moiety is the significant structural element which is shared by all of the alternatives. Since all the claimed compounds are alleged to possess the same utility, unity is present.

#### Example 19— common structure:

Claim 1: A compound of the formula:



wherein  $R_1$  is selected from the group consisting of phenyl, pyridyl, thiazolyl, triazinyl, alkylthio, alkoxy, and methyl;  $Z$  is selected from the group consisting of oxygen (O), sulfur (S), imino (NH), and methylene ( $-\text{CH}_2-$ ). The compounds are alleged to be useful as pharmaceuticals for relieving lower back pain.

In this particular case the iminothioether group  $-\text{N}=\text{C}-\text{SCH}_3$  linked to a six atom ring is the significant structural element which is shared by all the alternatives. Thus, since all the claimed compounds are alleged to possess the same use, unity would be present. A six membered heterocyclic ring would not have been of sufficient similarity to allow a Markush grouping exhibiting unity, absent some teaching of equivalence in the prior art.

#### Example 20— common structure

Claim 1: A compound of the formula:

